

Serial No. 09/008965

Response dated August 18, 2004

Response to Final Office Action dated March 18, 2004

Page 7 of 9

### **REMARKS/ARGUMENTS**

Claims 1-10 and 21-40 were presented and examined. The Examiner objected to the drawings and the title of the invention. The Examiner rejected claims 1-10 under 35 USC § 112, second paragraph, as being indefinite. Claims 1-2, 21-22, and 31-32 are rejected under 35 USC § 102(e), as being anticipated by Ripolone (USPN 6,439,932 B1). The Examiner rejected claims 3, 23, and 33 under 35 USC § 103(a) as being unpatentable over Ripolone. The Examiner rejected claims 4-5, 24-25, and 34-35 under 35 USC § 103(a) as being unpatentable over Ripolone in view of Cameron (USPN 4,217,019). Claims 6-10, 26-30, and 36-40 were rejected under 35 USC § 103(a) as being unpatentable over Ripolone. In this response, Applicant has amended the title of the invention, the specification, and claim 1. Claims 1-10 and 21-40 remain pending.

#### **Specification Objections**

The Examiner objected to the previously proposed amended title as vague. Applicant has proposed an amended title herewith that is believed to be sufficiently precise. If, however, the Examiner finds the proposed title still lacking for any reason, Applicant would greatly appreciate any thoughts the Examiner may have for an acceptable title.

#### **Drawings Objections**

The Examiner objected to the drawings as failing to comply with 37 CFR 1.84(p)(4) because the reference character "107" has been used to designate both surface and guide. In response, Applicant has amended the specification to correct the inadvertent use of reference numeral 107 in connection with the probe guide, which should have been identified by reference numeral 118. Applicant submits that the specification as amended addresses the objection raised by the Examiner and Applicant would respectfully request the Examiner to reconsider and withdraw the objection.

Serial No. 09/008965

Response dated August 18, 2004

Response to Final Office Action dated March 18, 2004

Page 8 of 9

Claim rejections under 35 USC § 112

The Examiner rejected claims 1-10 under 35 USC § 112, second paragraph, as being indefinite. Applicant has amended to correct the antecedent problem. The amendment is not made for any purpose related to prior art and the amendment is not to alter the scope of the claims, but rather merely to clarify the claimed subject matter.

Claim rejections under 35 USC § 102(e)

The Examiner rejected claims 1-2, 21-22, and 31-32 under 35 USC § 102(e), as being anticipated by Ripolone (USPN 6,439,932 B1). The Examiner rejected claims 3, 23, and 33 under 35 USC § 103(a) as being unpatentable over Ripolone. The Examiner rejected claims 4-5, 24-25, and 34-35 under 35 USC § 103(a) as being unpatentable over Ripolone in view of Cameron (USPN 4,217,019). Claims 6-10, 26-30, and 36-40 were rejected under 35 USC § 103(a) as being unpatentable over Ripolone.

In response, Applicant submits herewith an Affidavit Under 37 CFR 1.131 and an attached document (the Disclosure) evidencing Applicant's conception of the claimed invention prior to the filing date of Ripolone and Applicant's subsequent diligence in reducing the invention to practice by the preparation and filing of the present patent application.

Applicant respectfully requests the Examiner to recognize the Affidavit and supporting evidence as sufficient to predate the cited reference and thereby eliminate the reference as prior art in this case. Because the rejections of all pending claims relies are based at least in part on Ripolone, Applicant would therefore request the Examiner to withdraw the prior art rejections of all pending claims.

Serial No. 09/008965

Response dated August 18, 2004

Response to Final Office Action dated March 18, 2004

Page 9 of 9

In the present response, Applicant has responded to Examiner's specification and drawing objections and rejections under 35 USC § 112, 35 USC § 102(e), and 35 USC § 103(a). Accordingly, Applicant believes that this response constitutes a complete response to each of the issues raised in the office action. In light of the amendments made herein and the accompanying remarks, Applicant believes that the pending claims are in condition for allowance. Accordingly, Applicant would request the Examiner to withdraw the rejections, allow the pending claims, and advance the application to issue. If the Examiner has any questions, comments, or suggestions, the undersigned attorney would welcome and encourage a telephone conference at 512.428.9872.

Respectfully submitted,



Joseph P. Lally

Reg. No. 38,947

ATTORNEY FOR APPLICANT(S)

LALLY & LALLY, L.L.P.  
P.O. Box 684749  
Austin, Texas 78768-4749  
512.428.9870  
512.428.9871 (FAX)

JPL/mmnn